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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,449	08/28/2001	Hideyuki Kano	21909/D034	4179

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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,449

Applicant(s)

KANO, HIDEYUKI

Examiner

Norcia L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed November 10, 2003 have been fully considered but they are not persuasive.

a. Claims 16 and 17 under 35 USC 112, first paragraph, have been rejected as failing to comply with the enablement requirement, and under second paragraph as being indefinite. The Applicant's amendment adds the language "Thus, the invention can improve the well being of new home occupants as well as preventing bedsores by bed ridden persons" to page 14 of the specification.

Applicants amendment to the specification has failed to overcome this rejection since the claims or the specification do not define the term "harmful substances" in the context of a bed sore-preventing product. It is the Examiner's position that the amendment still does not comply with the enablement requirement because the term "harmful substances" is still in the context of a normal type house and there is no relation on how the harmful substances found in new building materials would prevent bedsores by bed ridden persons.

Therefore, the rejections are maintained.

b. With regards to the rejection of claims 16 and 17 under 35 USC 103 (a) over JP4289274A in view of ELES (US 4,525,409), the Applicants argue that according to the JP'274 reference, graft polymerization is performed first and then copper (Cu) is added to the graft polymerized portion of a fabric. On the other hand, that according to

the present invention, graft polymerization is performed after adding deodorant to threads by impregnation.

Applicants are directed to MPEP 2144.04, which indicates that the selection of any order of performing process steps is *prima facie* obvious in the absence of new or unexpected results.

Therefore, the rejections are maintained.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 16 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement as stated in previous action and further discussed above. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants claim a deodorant that serves as an agent for removing harmful substances. The claims or the specification do not define the term "harmful substances" in the context of a bedsore-preventing product. The specification describes "harmful substances" in a normal type house, but not in the context of a bedsore preventing product and the harmful substances produced around a patient's body and skin.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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5. Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention as stated in previous action. It is not clear from the specification if the harmful substances are those listed on page 14, lines 1-5? If so, then it is not clear what is the relation of these substances with the scope of the claimed bed sore-preventing product.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 04289274A (Abstract) in view of ELES (US 4,525,409) as stated in previous action.

Applicant claims a bed sore preventing product and a method of making it that comprises the impregnation of threads with a deodorant, treating the threads with graft polymerization and weaving a textile material from the threads. The JP reference discloses deodorant textiles that contain copper on graft polymerized part of the fiber surface. The graft polymerization layer of the fiber surface comprises copolymerised vinyl comonomer having carboxylic or sulphonic acid group. The fiber material may be synthetic fibers, regenerated fiber or natural fiber. The abstract of the reference indicates that their invention is useful for bedding articles, interior articles and cloth.

While the JP reference teaches the use of their invention for bedding articles, it does not explicitly disclose that the bedding articles or cloths are woven.

ELESH discloses a process for making a fabric used to produce bedding especially well suited for hospitals and nursing homes, among others. (Abstract) The reference teaches weaving a cloth to produce the fabric for the bedding of their invention. (See claim 1)

Since both references are analogous art, both are directed to fabrics for bedding; the purpose disclose by ELESH would have been recognized in the pertinent art of the JP reference. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the bedding article to be a woven fabric with the motivation of providing a fabric which does not become offensive as by forming a breeding media for mildew, bacteria, or fungus as disclosed by ELESH. (Column 1, lines 43-45) Applicants are further directed to MPEP 2144.04, which indicates that the selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results.

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0994.

T. Torres
Norca L. Torres-Velazquez
Examiner
Art Unit 1771

January 20, 2004

Elizabeth M. Lee
Elizabeth M. Lee
Examiner